

REMARKS

The above amendments to the above-captioned application along with the following remarks are being submitted as a full and complete response to the Office Action dated October 23, 2006, in conjunction with a Request for Continued Examination (RCE). In view of the above amendments and the following remarks, the Examiner is respectfully requested to give due reconsideration to this application, to indicate the allowability of the claims, and to pass this case to issue.

Status of the Claims

As outlined above, claims 29-30 stand for consideration in this application, wherein claim 6 is being canceled without prejudice or disclaimer, while claims 29-30 are being added. The addition of claims 29-30 are fully supported in the specification, including but not limited to pages 17-18, page 19, line 15 - page 23, line 27, Fig. 20: Steps 1903-1904, T20 in Fig. 4; Fig. 8, and the cancelled claim 11. Applicants hereby submit that no new matter is being introduced into the application through the submission of this response.

Prior Art Rejections

Claim 6 was rejected under 35 U.S.C. §103 as being unpatentable over Mangipudi et al. (US 6,728,748) in view of Dorsey et al. (US 6,198,751) and Bruck et al. (US 6,801,949). Applicants have reviewed the above rejections, and hereby respectfully traverse.

The method of the new claim 29 is directed to allocating hardware resources per computer per each user (can be a person or a company, p. 25, line 16). In particular, the invention urges a user to enter (Fig. 20) at least the upper limit number (e.g., 8 servers) and the lower limit number (e.g., 2 servers) of computers to be allocated (last two columns of T20 in Fig. 4), and a threshold level of a load condition (e.g., "*all the servers are made to run at a CPU operation rate smaller than 50 %*" p. 17, lines 18-20) of the computers allocated. Based on the user's entry, a certain number of computers are initially allocated to the user and started. Then, the load condition of the computers is monitored. If the monitored value indicates that the computers currently allocated to the user are overloaded as compared with the threshold level, and that the number of the computers currently allocated is smaller than the upper limit number, and that there is at least one idle computer in the system, the idle computer is allocated to the

user (e.g., *“If the operation rate becomes 50% or higher, eight servers at a maximum are allocated, i.e., eight Web servers, eight AP servers and eight DB servers.”* P. 17, lines 21-23).

Mangipudi is directed to the service level management of Internet services. Mangipudi recognizes or categorizes incoming traffic of requests based on their source IP addresses or their destination IP addresses, and Mangipudi further provides a load balancing algorithm (Fig. 5; claim 18). However, Mangipudi only balances service loads of service depending upon a service class assigned to each server cluster (Gold class 206a, Silver class 206b, Bronze class 206c in Fig. 2; claim 18) which is decided based upon user-defined policies to take care of the categorized services. In other words, Mangipudi merely allocates loads per service class, but not “allocating resources per computer per user”.

Mangipudi selects a plurality of selected service level metrics from a group consisting of: guaranteed response time by user, etc. (claim 3), which does not involve allocating hardware resources per computer per user (*“Service providers can provide users with access levels and content that is appropriate to their subscribed Class of Service or Service Level Agreement (SLA). ISPs can enter into SLAs with virtual web site hosting customers where they will be able to guarantee response times, error rates, access to site resources and generate quantifiable periodic reports to measure the SLA metrics. Based on SLA metrics corrective actions can be taken so that response times, open connections, and percentage of content and server related errors fall within acceptable levels.”* col. 6, lines 21-31).

Dorsey only discloses a multi-protocol packet translator, but fails to disclose or suggest the Applicants’ feature as set forth above.

Bruck discloses load balancing between web servers and application servers, that is, load balancing between server layers. Thus, Bruck fails to disclose or suggest the Applicants’ feature as set forth above.

Choquier discloses load balancing between server groups grouped on a service application basis. Thus, Choquier also fails to disclose or suggest the Applicants’ feature as set forth above.

Applicants contend that the cited references and their combinations fail to teach or suggest each and every feature of the present invention as recited in independent claim 29. As such, the present invention as now claimed is distinguishable and thereby allowable over the

rejections raised in the Office Action. The withdrawal of the outstanding prior art rejections is in order, and is respectfully solicited.

Conclusion

In view of all the above, Applicants respectfully submit that certain clear and distinct differences as discussed exist between the present invention as now claimed and the prior art references upon which the rejections in the Office Action rely. These differences are more than sufficient that the present invention as now claimed would not have been anticipated nor rendered obvious given the prior art. Rather, the present invention as a whole is distinguishable, and thereby allowable over the prior art.

Favorable reconsideration of this application as amended is respectfully solicited. Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the above-captioned application, the Examiner is invited to contact the Applicants' undersigned representative at the address and phone number indicated below.

Respectfully submitted,

Stanley P. Fisher
Registration Number 24,344



Juan Carlos A. Marquez
Registration Number 34,072

REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, Virginia 22042
(703) 641-4200

April 17, 2007
SPF/JT